

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

UNITED STATES OF AMERICA

v.

MARVIN BERRY JR.,
a/k/a MARVIN BELL

INDICTMENT

Case No. _____

Violations: 18 U.S.C. §§ 922(g)(1),
924(a)(8), 924(c)(1)(A), 924(d), 924(e), and
2; 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C),
and 853(a); and
28 U.S.C. § 2461(c)

COUNT ONE

Possession with Intent to Distribute a Controlled Substance

The Grand Jury Charges:

On or about February 6, 2024, in the District of North Dakota,

MARVIN BERRY JR., a/k/a MARVIN BELL,

did knowingly and intentionally possess with intent to distribute a mixture and substance containing a detectable amount of fentanyl,¹ a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C);
and Title 18, United States Code, Section 2.

¹ The chemical name of fentanyl is N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide. See 21 U.S.C. § 841(b)(1)(B)(vi).

COUNT TWO

Possession of a Firearm in Furtherance of a Drug Trafficking Crime

The Grand Jury Further Charges:

On or about February 6, 2024, in the District of North Dakota,

MARVIN BERRY JR., a/k/a MARVIN BELL,

did knowingly possess a firearm, namely, Smith & Wesson, Model SD9VE, 9mm pistol, bearing Serial Number FWS2438, in furtherance of a drug trafficking crime for which he may be prosecuted in a court of the United States, that is, Possession with Intent to Distribute a Controlled Substance, as set forth in Count One above;

In violation of Title 18, United States Code, Sections 924(c)(1)(A) and 2.

COUNT THREE

Possession of a Firearm by a Convicted Felon

The Grand Jury Further Charges:

On or about February 6, 2024, in the District of North Dakota,

MARVIN BERRY JR., a/k/a MARVIN BELL,

individually, and by aiding and abetting, knowing that he had previously been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, to wit:

1. Manufacture of a Controlled Substance within 1000 Feet of a School, a Class A felony, in violation of N.D. Cent. Code §§ 19-03.1-23(1)(b), 19-03.1-05(5)(h), and 19-03.1-23.1(1)(a) and (2)(b), State of North Dakota, County of Cass, East Central Judicial District, Case Number 09-2016-CR-917, with an offense date of on or about March 9, 2016, and judgment entered on or about August 2, 2016;
2. Possession of Methamphetamine with Intent to Deliver or Manufacture – 2nd Offense, a Class A felony, in violation of N.D. Cent. Code §§ 19-03.1-23(1)(a), 19-03.1-23(1)(a)(1), and 19-03.1-07(5)(c), State of North Dakota, County of Cass, East Central Judicial District, Case Number 09-2016-CR-917, with an offense date of on or about March 9, 2016, and judgment entered on or about August 2, 2016;
3. Possession of with Intent to Manufacture or Deliver a Controlled Substance – 2nd Offense, a Class B felony, in violation of N.D. Cent. Code §§ 19-03.1-23(1)(a)(1) and 19-03.1-07(3), State of North Dakota, County of Cass, East Central Judicial District, Case Number 09-2018-CR-3119, with an offense date of on or about July 18, 2018, and judgment entered on or about August 16, 2018;
4. Possession of with Intent to Manufacture or Deliver a Controlled Substance, a Class B felony, in violation of N.D. Cent. Code §§ 19-03.1-23(1)(b) and 19-03.1-05(5), State of North Dakota, County of Cass, East Central Judicial District, Case Number 09-2018-CR-3119, with an offense date of on or about July 18, 2018, and judgment entered on or about August 16, 2018;

5. Delivery of a Controlled Substance, a Class B felony, in violation of N.D. Cent. Code §§ 19-03.1-23(1)(a) and 19-03.1-07(4), State of North Dakota, County of Cass, East Central Judicial District, Case Number 09-2022-CR-5442, with an offense date of on or about May 4, 2022, and judgment entered on or about May 4, 2023;
6. Delivery of a Controlled Substance, count one, a Class B felony, in violation of N.D. Cent. Code §§ 19-03.1-23(1)(a) and 19-03.1-07(4), State of North Dakota, County of Richland, Southeast Judicial District, Case Number 39-2023-CR-7, with an offense date of on or about April 18, 2022, and judgment entered on or about June 26, 2023;
7. Delivery of a Controlled Substance, count two, a Class B felony, in violation of N.D. Cent. Code §§ 19-03.1-23(1)(a) and 19-03.1-07(4), State of North Dakota, County of Richland, Southeast Judicial District, Case Number 39-2023-CR-7, with an offense date of on or about May 11, 2022, and judgment entered on or about June 26, 2023;

did knowingly possess in and affecting commerce a firearm, that is:

Smith & Wesson, Model SD9VE, 9mm pistol, bearing Serial Number FWS2438;

In violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(8), 924(e),

and 2.

FORFEITURE NOTICE

Upon conviction of the offense alleged in this Indictment,

MARVIN BERRY JR., a/k/a MARVIN BELL,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 924(d), Title 21, United States Code, Section 853(a), and Title 28, United States Code, Section 2461(c), all firearms involved in the commission of the offense, including, but not limited to, the following:

Smith & Wesson, Model SD9VE, 9mm pistol, bearing Serial Number FWS2438.

A TRUE BILL:

/s/ Foreperson
Foreperson

/s/ Mac Schneider
MAC SCHNEIDER
United States Attorney

JTR/alk